

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANGELO GRACE,
PRISONER NO.# 11-A-1499,

Plaintiff,

-against-

MARCY L. KAHN, Justice of the Supreme Court,
County of New York; and CYRUS R. VANCE, JR.,
District Attorney of New York County and
their Office; and BONNIE SARD, Assistant District
Attorney,

Defendants.

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COMPLAINT PURSUANT TO CIVIL
RIGHTS ACT, 42 U.S.C. § 1983

JURY TRIAL DEMANDED

16CV2780

I.

Parties in this Complaint:

1. Plaintiff ANGELO GRACE, under Inmate/Prisoner No.# 11-A-1499, is presently incarcerated at SING SING CORRECTIONAL FACILITY, Located at 354 Hunter Street, Ossining, New York 10562.
2. Defendant Number 1, MARCY L. KAHN, a Justice of the Supreme Court, County of New York, is Located at 100 Centre Street, New York, New York 10013.
3. Defendant Number 2, CYRUS R. VANCE, JR., is District Attorney of New York County, which is located at One Hogan Place, New York, New York 10013.
4. Defendant Number 3, BONNIE SARD, was an Assistant District Attorney, at all times relevant to this complaint, and located at One Hogan Place, New York, New York 10013.

II.

Statement of Facts

On April 21, 2003, Conniel Scott and William Gaymon were jointly charged by

indictment # 2507-2003, with committing two counts of murder in the second degree, and two counts of robbery in the first degree, and one count of robbery in the second degree. Approximately (17) months later, on **October 12, 2004**, the Plaintiff was added to the indictment only by his name appearing in the caption and or title part of indictment **2507-2003**, although not the factual allegation part, i.e., "Pleading" part, i.e., "Accusatory instrument" part, i.e., "Cause of action" which does accuse and incriminate as required with specific particularity: **CONNIEL SCOTT** and **WILLIAM GAYMON** only, all throughout the entire Indictment's Counts I thru X, in connection with describing the perpetrators of the fatal stabbing death of of the deceased **Christopher Betts**, killed on **May 6, 1999**. Thereafter, defendant **MARCY L. KAHN** dismissed count 3 of the indictment [# 2507-2003, New York Co. Sup. Ct.] against the Defendant, Plaintiff herein, in response to the defendant **BONNIE SARD'S** motion dated **September 17, 2003** according to defendant **MARCY L. KAHN**, as indicated in her **DECISION AND ORDER** dated **February 28, 2014**. Both defendants **MARCY L. KAHN** and **BONNIE SARD**, acknowledge in their papers that **CONNIEL SCOTT** and **WILLIAM GAYMON**, were the only two joined **co-defendants** indicted on **April 21, 2003**, pursuant to indictment **2507-2003**, New York County, Supreme Court, even though the Plaintiff **ANGELO GRACE** name appears only in the caption and or tile part of said indictment **2507-2003** which indicted only the two above mentioned **co-defendants**. The plaintiff herein was not indicted by the defendant **MARCY L. KAHN** own admission. Pursuant to Conniel Scott and William Gaymon's indictment of **April 21, 2003**, a **Warrant of Arrest** was issued for the Plaintiff and signed without any dispute by either defendant **MARCY L. KAHN** or **BONNIE SARD**, by **F. Duffy**, an Associate Court Clerk of the Supreme Court, County of New York. That resulted in said associate clerk's illegal and unlawful **action** causing the Plaintiff to be **extradicted** on **September 17, 2003** from a South Carolina Correctional Facility and produced before judge **Brenda Soloff**, in Part

60, on **September 18, 2003**, to be arraigned according to records pursuant to Indictment **2507-2003**, even though he was never indicted by a Grand Jury prior to, or at the time that he appeared before judge **brenda Soloff**, as the Plaintiff "**after-the-fact**" discovered. The plaintiff was **extradicted** from a South Carolina Correctional Facility additionally through the use of a local county **warrant of arrest**, illegally and unlawfully through **dishonesty, fraud, deceit and false misrepresentation** based upon documentary evidence and proof. Neither as "**after-the-fact**" discovered was there ever any **Felony Complaint** filed against the Plaintiff, nor any **SCI** (that is to say, "Superior Court Information") filed. The plaintiff thereafter, on **November 25, 2014** served the defendant **CYRUS R. VANCE, JR.**, and their Office "**adequate and sufficient**" **notice** to set straight matters described here in Plaintiff's complaint but to no avail did the Defendants either acknowledge, contact him, or set out to correct their **fraud, malicious prosecution** of the plaintiff's conviction that amounts to his presently being **wrongfully convicted and falsely imprisoned**.

That actually is believed to have occurred in or about **September 17, 2003**, when the Plaintiff was "**Physically**" [**extradicted**, that is to say] removed from a **South Carolina Correctional Facility** and under the totality of the circumstances "**kidnapped**" by City of New York **Police Officers** without proper legal authority or papers to support their 'taking' of the Plaintiff from out of one State into another based upon false pretense, deceit, fraud and misrepresentation. The defendant in sum, "**willfully and knowingly**" committed acts ranging from **fraud, official misconduct** the equivalent of **malfeasance of office, libel and slander, filing false and erroneous papers and reports along with enteries and false statements**, while acting in **conspiracy** with another or others.

**III.
Previous Lawsuits**

1. The plaintiff has filed no other lawsuit(s) in **state** or **federal** court dealing with the facts complained about in his instant complaint.
2. Nor has he ever filed any suit before now in any **state** or **federal** court.

**IV.
Exhaustion of Administrative Remedies**

1. Prior to filing his instant **Section 1983** of **Title 42** of the **United States Code**, the Plaintiff filed a formal **written complaint** before the **New York State Commission on Judicial Conduct** regarding the defendant **MARCY L. KAHN**, on **January 31, 2016**, that was acknowledged on **February 9, 2016**, and issued **Reference No. # 2016/N-0094**.

**V.
CAUSE OF ACTION**

FIRST:

The actions described in the Plaintiff's **statement of facts** against the Defendant(s) **MARCY L. KAHN**, "willfully" and "knowingly" acted in conspiracy with while united in the same interest to deprive the Plaintiff of their inalienable/unalienable right of liberty without any legal or lawful probable cause or warrant to support their taking or negligent and liable actions violates **Title 42** of the **United States Code § 1983**; and plaintiff's right and privilege to the **United States Constitution, Amendment VIII and XIV**.

SECOND:

The plaintiff respectfully submits that the defendant **MARCY L. KAHN**, while acting united in the same interest with and in conspiracy with defendant **BONNIE SARD**, and another or others named or unnamed but known and not yet legally sought to

be joined as defendant(s), has been found to have denied Plaintiff a grand jury, by her "wrongful use", in actuality by merely claiming instead that Plaintiff was indicted by a grand jury, when in fact he wasn't, nor was one used to indict him, where no crime or wrong has been proven against the Plaintiff before a duly constituted Grand Jury, amounts to **fraud, breach of trust and public confidence, libel, slander, defamation of character, and an unlawful imprisonment and wrongful conviction, cruel and unusual punishment** and other civil offenses described in the Plaintiff's **statement of facts** complaint violates **Title 42 of the United States Codes Section 1983**; and Plaintiff's **United States Constitution, Amendment VIII and XIV**.

THIRD:

The plaintiff accuses each named defendant mentioned and described in his **statement of facts** [i.e., Complaint] responsible for breaching an existing law, while subjecting him to cruel and unusual punishment as a result of Plaintiff being falsely exposed within the **STATE OF NEW YORK Prison System** general populations, and thereby deprived the right of liberty to continue to maintain personal ties and bonds with family members and friends, and community peers for crimes undocumented, unproven and unsubstantiated by the Defendants as a "whole" against the Plaintiff, through the introduction and use of 'a real witness' or witnesses or complainant having the requisite personal knowledge of him committing a crime against another tangible **Human Being** in their absence violates **42 U.S.C. § 1983**; and Plaintiff's **right and privilege** pursuant to **United States Constitution, Amendment VIII and XIV**.

FOURTH:

The defendant **BONNIE SARD'S** breach of legal duty and public trust and confidence are a derivative stemming from those actions, omissions, failures and

negligent acts described in plaintiff's **statement of facts** part mentioned and contained above herein, sufficient demonstrates her "willful" and "knowing" role as a **co-conspirator** against the Plaintiff in violation of **Title 18** of the **United States Code Section 371** and **241**; and **42 U.S.C. § 1983**, which further causes injury harm and damages to the Plaintiff. Including violates his **right** and **privileges** guaranteed pursuant to the **United States Constitution, Amendment VIII** and **XIV**.

FIFTH:

The plaintiff respectfully submits that defendant **CYRUS R. VANCE, JR.**, after having received all proper Notices issued as the **truth, the whole truth, and nothing but the truth, so help him God**. Based upon his Personal Knowledge of the facts, and sworn as **true, correct** and **complete**, which have not been formally rebutted by the Respondent Defendant, amounts to their being held liable for their agents negligent actions, and the Plaintiff's false imprisonment and wrongful conviction for an undocumented, unsubstantiated and unproven crime he is unlawfully imprisoned under in violation of **Title 42** of the **United States Code Section 1983**, and **U.S. Const. Amend. V, VIII** and **XIV**.

SIXTH:

Plaintiff respectfully submits that defendant **MARCY L. KAHN**, while united in the same interest shared with her **co-conspirator(s)** **BONNIE SARD** and **CYRUS R. VANCE, JR.**, who each have been found and proven to have acted in collusion collusively with and in conspiracy with each other "severally or jointly" thereby committed actual and positive **fraud** as well as constructive fraud upon the Plaintiff prior to **September 17, or 18th, 2003**, violates **tit. 18, U.S.C. §§ 371, 241** and **1001**; and **tit. 42 U.S.C. § 1983**; and plaintiff's **U.S. Const., Amends. V, VIII & XIV**.

SEVENTH:

The plaintiff's complaint has ample prima facie **evidence** and proof to substantiate and prove how each defendant by their names participated in depriving plaintiff herein of their **civil rights** in violation of **Title 18** of the **United States Code Section 371** and **241**; and **Title 42 U.S.C. § 1983**, which also causes injury harm and damage to the Plaintiff or another situated. Including violates their guaranteed **rights** and **privileges** attached to the **United States Constitution, Amendment I, V, VIII and XIV**; and **Parallel N.Y. Constitution, Article 1, §§ 1, 6 and 11**.

EIGHTH:

Plaintiff further alleges that the defendant **MARCY L. KAHN**, and **BONNIE SARD** [amongst others not yet named or added to Plaintiff's suit] caused him to be without **due process and unlawfully restrained, detained, kidnapped and falsely imprisoned** and at all times relevant failed to substantiate, prove or establish by clear and convincing evidence how **jurisdiction** was acquired over the Plaintiff in violation of **42 U.S.C. § 1983**; and the **U.S. Const. Amend. XIV**. Including through other applicable statutory provisions violated.

NINTH:

The defendants each freely acquiesce and constructively admit to all of the **civil damages** as listed in his facts part of Plaintiff's complaint. Which actually amounts to violation of **Section 1983** of the **United States Code, Title 42**; and **United States Constitution, Amendment I, VIII and XIV**; which are **denial of Plaintiff's right to seek redress of grievances** in a Court claiming to exercise **Article II Section 16** and **II** power; and was further deprived of his **right of liberty** to have due process afforded to him; and was as remains to be subjected to **cruel and unusual**

punishment as a result of him presently experiencing a **false imprisonment** and **wrongful conviction**.

TENTH:

As a result of the acts, negligence and liability(ies) described in the Plaintiff's **statement of facts** mentioned above herein, the defendants are each guilty of subjecting plaintiff to experience derivative injuries harm and damages that includes **recovering** for assumptive monetary liability damages, consequential damages, actual damages, necessary damages, proximate damages, pecuniary damages, speculative damages, general damages, nominal damages, continuing damages, compensatory damages, remote damages, tort injury damages (i.e., "**Personal injury damages**") ; punitive damages together with **Just Compensation**. For the defendant's infliction against plaintiff of a **false imprisonment, wrongful conviction** and **kidnapping** in violation of an existing statute, provision, rule, regulation, and **Constitution**. That includes "pain" and "suffering", mental anguish, emotional stress, and loss of earnings along with Plaintiff's loss of earning power and capacity.

ELEVENTH:

The defendant **BONNIE SARD, CYRUS R. VANCE, JR., and MARCY L. KAHN**, are each "severally and jointly" liable for filing false instruments for filing, falsified business records and official documents, and making false entries in violation of **18 U.S.C. § 1001**; and committing **perjury** in violation of **Title 18** of the **United States Code Section 1621 and 1622**, along with **section 241, tit. 18, U.S.C.** Including, but not limited as all of the provisions previous mentioned to **Section 1983**. Which violates **U.S. Const. Amend. XIV**; and other constitutional provisions.

TWELVTH:

The plaintiff alleges that each defendant "severally and jointly" committed the act of Official misconduct, the equivalent of **Malfeasance of Office** in violation of new York Penal Law Section 195.00 and other applicable federal statutory provisions which includes **Title 42 of the United States Code Section 1983**; and **United States Constitution, Amendment XIV**.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff request that this Court grant to him a declaratory judgment finding the defendants each liable and negligent for Plaintiff's damages; and further granting to him to be **awarded** by the Defendants compensation for his injuries and damage in the amount of **ONE HUNDRED MILLION DOLLARS** (\$ 100, 000. 000); along with permitting the Plaintiff to **PRESERVE AND RESERVE** the "Right" to **amend** or **supplement** his instant complaint pursuant to applicable provisions together with obtain any necessary party being **joined** by this Court to his instant action, and obtain a **Pretrial Conference** immediately between the involved parties representative and Plaintiff along with his **Inmate Legal Assistant**, and the Reviewing and or assigned **Magistrate Judge** participating in such Legal conference, and at such time other necessary relief being requested.

DATED: April 10th, 2016.

I declare under the penalty of perjury pursuant to **28 U.S.C. § 1746 (1)**, that all of the foregoing facts stated above in this complaint are true and correct.

Executed on this 10th day of April, 2016.

Angela Sumner
Signature of Plaintiff

ANGELO GRACE
INMATE DIN.# 11-A-1499
SING SING CORRECTIONAL FACILITY
354 HUNTER STREET
OSSINING, NEW YORK 10562



Post
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